IFAR reports

and The Art Loss Register

Volume 18, Number 11
November 1997

Missing: Renoir's "Baigneuse"

Cancelled Florida Auction Presents Legal Options to Protect Art Market

IFARreports
incorporating *Stolen Art Alert*

Volume 18, Number 11
November 1997

IFARreports is published ten times a year by the International Foundation for Art Research in cooperation with the Art Loss Register, the art community, insurance companies, police, the FBI, and Interpol. ISSN 8756-7172.

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IFAR is pleased to present three highly knowledgeable panelists and an expert moderator in a discussion of an important topic. Franklin Feldman, is a coauthor of *Art Law* and teaches art law at the Columbia University School of Law; Joseph Baillio is writing the catalogues raisonnées of Hubert Robert, Elisabeth Louise Vigée Le Brun, and Jean Marc Nattier for the Fondation Wildenstein; Hermine Chivian-Cobb is an appraiser, a private dealer in modern drawings, and former Head of the Drawings Department at Sotheby's; Van Kirk Reeves is a member of both the French and New York bars and specializes in art cases.

IFAR EVENING

Wednesday, December 10, 1997 — 6:00 p.m.

THE FRENCH LAW ON EXPERTS
Its Effect on the American Art Market

Franklin Feldman, *Moderator*
Coauthor Art Law; *Lecturer in Law, Columbia University School of Law*

with

Joseph Baillio, *Vice President, Wildenstein & Co., Inc.*

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RESERVATIONS REQUIRED

Florida Board of Auctioneers to Decide on C.B. Charles Gallery

An art auction at the C. B. Charles Gallery in Pompano Beach, Florida scheduled for February 2 of this year was cancelled two days prior, when it was revealed by the Art Dealers Association of America in a joint effort with the FBI, that most, if not all, of the 294 works set for auction were forgeries.

Mr. Charles, principally an estate and memorabilia auctioneer, is known for the auctions of jewelry, clothing, and other property of celebrities such as Mae West, Audrey Meadows, Mary Pickford, and Orson Welles. Charles' auctioneering record, however, is not beyond reproach. According to *The Miami Herald*, in December of 1995 the Florida Board of Auctioneers put Charles on probation for a year following violations in North Carolina, where he surrendered his auctioneer's license permanently. These offenses included: using false bidders, allowing an unlicensed man to call bids, failing to maintain sales, and failing to meet financial requirements.[1]

Daryl Dempsey of the Florida Board of Auctioneers reconfirmed in October that she "can neither confirm nor deny the receipt of any complaints until probable cause has been found." As the next meeting of the Florida Board of Auctioneers is not scheduled until December, no official action against the gallery is likely to be taken by the board until that time.

Mr. Charles, who claims no expertise in fine arts, maintains that the catalog was prepared entirely by the original owner, and his only action was investing the original $70,000 for the catalog's printing and distribution, and footing the bill for the auction's nationwide advertising. The appraisals and authentications, Charles claims, were made by a yet to be disclosed, "expert." This "expert," however, ignored the prescribed steps indicated for appraisers to avoid negligence actions.[2] If any of these steps were considered, as they should have been by an expert, the lack of authenticity of these works would have been obvious. Additionally, this "expert" failed to recognize such flagrant indications of forgery, such as spelling Winslow Homer's name Windslow Homer (spelled correctly in the index of the catalog, and then misspelled in the caption next to the photograph of the painting), and Camille Pissarro, spelled Camile Pissarro. Also missed were great discrepancies in the artists' styles and the overall amateur appearance of the works.

The owner, Mr. Charles asserts, is a descendant of Stephen Moore. Moore was a colonist who during the Revolutionary War donated to the United States Military Academy land upon which West Point was later built. He also claims that this "single individual was responsible for the descriptions that accompanied the images in the catalog." Mr. Charles placed full-page advertisements for the February 2 auction in the January issue of several high-profile magazines including *Art & Antiques*, *ArtNews*, and *Art & Auction*. Such advertisements can cost thousands of dollars per page. Each featured a 3 1/2" X 4 1/2" color representation of one of the works scheduled for auction, and pronounced, "A Highly Important Art Auction of 19th and 20th Century Impressionistic, Modern & Contemporary Paintings consisting of 300 Oils, Watercolors, Pastels & Drawings." Additionally, the advertisement provided a partial listing of artists to be auctioned, which included Milton Avery, Marc Chagall, Edgar Degas, David Hockney, Willem de Kooning, Pablo Picasso, and James Abbott McNeil Whistler.

It was these advertisements that spurred questions and complaints from New York art dealers, which in turn prompted the Art Dealers Association of America to aid an FBI investigation of of the suspect works. Living artists—Jasper Johns, Jim Dine, Jack Levine, and Helen Frankenthaler—affirmed that they had not created the works that were attributed to them in the catalog. Clearly, the works represented in the C. B. Charles catalog were for the most part, if not entirely, fakes.

The catalog includes a highly revealing "Terms of Guarantee." An auction house will commonly sell

US postage stamps with the image of Georgia O'Keeffe's *Red Poppy*. A fake of the composition was in the cancelled sale.

works "as is"; however, when a piece postdates 1870, a major auction house, such as Sotheby's or Christie's, will offer a guarantee for five years, rather than the thirty days provided by C. B. Charles. During a phone interview with Mr. Charles, he alleged that he had signed an agreement with the owner extending the thirty-day guarantee to a period of ninety days, due to the lack of provenance on all of the works. This "agreement," if it actually exists, would not be legally binding as section 2-328(4)(b) of the U.C.C. states: "binding effect of terms: Terms established by advertisements or other publication released by sellers; Those terms are binding unless modified or changed prior to the start of the auction."[3] These terms were not modified or changed, and the purchasers would have been bound to the impossible terms of the original guarantee—thirty days to make a return and substantiate the claim with the opinion of a recognized scholar. It would be very difficult to obtain the professional opinion of a "recognized scholar or expert in that particular field" in thirty days. Even if the purchaser managed to secure such an opinion within the prescribed time frame, the validity of the scholar's opinion still must be found to be, "satisfactory to the Galleries." This provision of the terms leaves the gallery with the ultimate trump card in almost any case and a defrauded buyer with virtually no legal recourse. The "guarantee" guarantees very little.

A suspicious catalog and several allegations from New York art dealers of fraud prompted Richard York, a Manhattan dealer who sits on the

Internal Revenue Service's art advisory panel, to take a trip down to Pompano Beach. After an on-site investigation of the works, he declared numerous works to be forgeries.

Investigations into the charges pending against either Mr. Charles or the consignor proved fruitless as this case is apparently "still under investigation" and "not subject to any official comment," as IFAR was told by the U.S. Attorney's office, the State Attorney's office, the Miami FBI, Department of Agriculture and Consumer Services, and the Department of Business and Professional Regulation.

At the time of the cancellation, the U.S. Attorney's office had no official comment but did tell the *Miami Herald* that it, "expected that investigators will present evidence to a grand jury." Now, over nine months later, this has yet to occur. This may be because Lloyd King, of the U.S. Attorney's office was originally assigned to the C. B. Charles case but was subsequently appointed to the bench, leaving Jeff Kaplan, the unit chief of white collar crime of the Ft. Lauderdale U.S. Attorney's office, with the case. Jeff Kaplan confirmed to IFAR that as of yet there have been no charges pressed, and the property is currently in government possession. He would not, however, reveal how the property was obtained.

According to Mr. Charles, the property was voluntarily relinquished to the authorities after the FBI initiated its investigation.

Currently, the property sits impounded in an FBI storage facility somewhere in southern Florida, and neither the consignor nor Mr. Charles has taken action to have the property returned. Unless a claim is made by the consignor or another interested party, the property may remain in FBI custody, unchallenged, indefinitely.

As frustrating as the authorities' failure to act may be, an important question still looms; what will become of the forgeries now sitting in an FBI warehouse? Will these fakes eventually find their way back to the auction block? This question is particularly pressing as Mr. Charles told IFAR that he is willing to attempt to auction these works again if they are returned to the owner and he is given the opportunity to do so. Regardless of how the property was obtained by the FBI, unless the government secures the rights to the paintings, they are subject to a motion for return by the owner at any time. A seizure only gives the government possession, whereas a forfeiture gives the government ownership rights to the property. There is no legal guarantee that these fakes are permanently off the market.

The law enforcement agencies cannot be entirely blamed for their inaction, as no clear course of action exists. (The legal recourse that does exist to assure that these fakes, and ones discovered in the future, are never allowed to recirculate is murky, at best.) Existing law is not tailored to allow law enforcement to efficiently and equitably halt auctions that involve forgeries, impound the fakes, and charge the individuals involved in the misrepresentations. Ideally, in light of the threat to the legitimate art world that the increasing growth of forgeries poses, new legislation should be crafted making the legal process less complicated; this would, in turn, make the business of selling fakes less appealing.

Not only is there a lack of applicable legislation, there is a marked absence of case law to serve as precedent. Never before has an auction with such a high profile been halted by the authorities. The situation at C. B. Charles was disturbing and left many people wondering how it could be handled, but how to tackle it legally was a question nobody seemed ready to answer.

In terms of the current law, there are two possible approaches to a case like C. B. Charles: one criminal, the other civil. If the first priority in the situation is to see to it that the fake art does not return to the art market and there is less concern with charging the offender criminally, the case can be treated as a civil forfeiture (filed as an *in rem* action). If the priority is to punish the perpetrator of the fraud and strip him of his interests in the property and perhaps his auctioneer's license, the action can proceed along a mail and wire fraud theory. A civil action, if successful, would strip the offender of his interests in the property in question, and the Board of Auctioneers has the authority to revoke an auctioneer's license to operate. A criminal action, if successful, carries the same power to strip the defendant of his property rights and revoke his auctioneering license but may also impose substantial fines and in some cases a prison sentence. However, along with this heftier punishment comes a larger burden of proof; the prosecutor must substantiate the element of criminal intent on the defendant's part.

In either case, the charge on the complaint would be a violation of 18 U.S.C. sections 1341 (mail fraud)[4] and 1343 (wire fraud).[5]

The critical element for a prosecutor is the amount of evidence that exists to sustain the requisite burden of proof, as the burden of proof associated with a civil forfeiture claim is considerably lower.

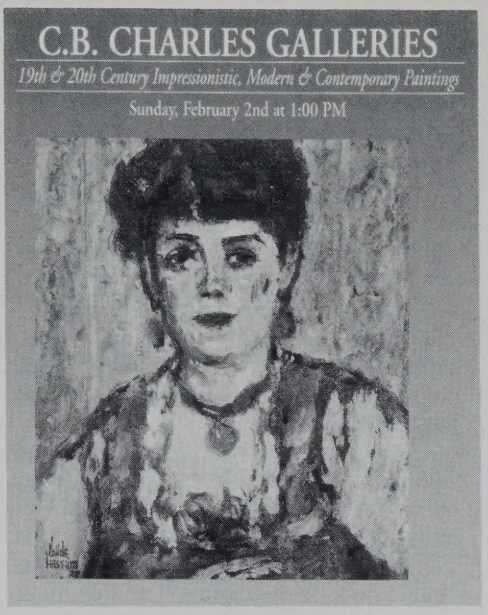
In cases with similar circumstances to those surrounding the C. B. Charles case, the application of the mail and wire fraud statutes has been relatively successful in levying fines on defendants and in some cases imposing prison sentences. In her article, "It Sure Looked Like Dalì to Me," Martha Lufkin considers the use of the federal mail and wire statutes in apprehending and punishing Chicago art dealer David Austin: "Austin, was convicted in 1995 for selling signed supposedly original limited edition prints by Dalì, Picasso, Miró and Chagall—most of which, the US Federal Trade Commission (FTC) said, were forgeries. (An FTC expert who examined 490 prints did not find a single authentic original.)" Austin, however, was not stopped when the FTC imposed a $650,000 fine on him; he continued to peddle his forgeries until the government further charged him with mail and wire fraud. The prosecutor in Austin's case had little trouble proving Austin's intent as employees at his gallery recalled that they, "never seemed to run out of prints" and that they had been obtained in "suspiciously large quantities," even exceeding the number in the edition. These statements leave no doubt that not only were these forgeries, but Austin was well aware of their lack of authenticity, but continued to misrepresent the works anyway.[6]

These fraud statutes were also utilized in the trial and conviction of Kathryn Amiel, her daughter Sarina, and Joanne Amiel. Said to be the

"single largest worldwide source and distribution network of bogus prints," the Amiels's had operated in Long Island since the 1970s. Intent, in this situation, was not difficult to prove. Clearly, the Amiels intended to defraud when they sold "so called 'limited edition' prints by the hundreds and misrepresented them as being created and signed by the artists, when in fact they were not created by the artists; they were not even involved with their production." Prints were then distributed to both the public and other galleries in England, Denmark, Switzerland, Belgium, Germany, and Sweden.[7] With such an elaborate scheme to defraud, requisite element of intent to convict under the mail and wire fraud statutes was not problematic.

To press criminal charges against an individual, the existing evidence must be "beyond a reasonable doubt," which is a considerably heavier burden than the "clear and convincing" burden the civil charge carries. The main elements that the government must prove under either statute (mail or wire fraud) are: (1) presence of a scheme to defraud; (2) intent to defraud; and (3) use of the mails or wires to further the fraudulent scheme.[8]

It is the second element that usually presents an obstacle for the prosecution. This burden becomes an impediment when the evidence is not as clear as in the Austin case. The C. B. Charles case presents such a predicament. Based on probable cause, the U.S. Attorney's office would obtain a warrant, predicated on the evidence that the gallery, or individual, has knowingly attempted to auction fraudulent works as authentic and has utilized the mail service in some way to advance this purpose. The complaint would list the alleged violations of either 18 U.S.C. section 1341, or 1343, or both. The defendant's attorney would then answer the complaint, and the validity of the alleged offenses would be determined by a jury trial. The burden would rest on the prosecution to prove *the mens rea* (guilty mind) of the defendant. The prosecution would need to exhibit the defendant's deliberate effort to defraud and misrepresent within the scheme to defraud, and this element would need to be proven "beyond a



shadow of a doubt." If the prosecution was able to present such evidence, the burden would then shift to the defendant to present a defense and/or excuse. Whether a jury would find the evidence in the C. B. Charles case "beyond a reasonable doubt" is dubious.

In the interest of efficiency, 18 U.S.C. 982, "Criminal Forfeiture," the criminal forfeiture action would be a separate count in the criminal mail and wire fraud indictment. After the defendant was convicted of the criminal charge, the same jury would then consider the criminal forfeiture action.[9]

A criminal forfeiture action also hinges on the ability to prove intent. Therefore, if the prosecution is successful in persuading the jury that the defendant is guilty "beyond a reasonable doubt," it is fairly certain that the criminal forfeiture action for the property interest will succeed. If the defendant is acquitted of the criminal charges, there is little chance that the criminal forfeiture motion will be successful. However, even if the evidence will not support a criminal conviction, an assistant in the civil division of the U.S. Attorney's office may still press forward with a civil case, and in this circumstance, an *in rem* action would be appropriate.

In rem forfeiture proceeds against the property, rather than the defendant, who is the focus of an *action in personam*.[10] The unique nature of an in rem action, in this case a civil forfeiture, while not commonly used in art forgery cases, makes it an attractive alternative to prosecuting the individuals involved. It is an appealing option because one of the principal concerns when considering forgeries is that they do not recirculate, and an action which would secure their destruction is fitting.

The federal code provides for a civil forfeiture action in this case. 18 U.S.C. 981 provides for civil forfeiture in mail and wire fraud cases.[11]

In bringing a civil forfeiture action against a seller who has misrepresented art, there is no need to prove criminal activity "beyond a reasonable doubt" on the part of the individuals involved; the evidence need only be "clear and convincing." The lower burden of proof makes this approach more accessible in situations where the *mens rea* is not easily proven. Although, as with criminal forfeiture, the initial burden is on the government, the burden is considerably easier to prove. In a civil forfeiture action, the proceeding is directly against the property at issue and can be seized. In this case, the property alone is the defendant, and judgment does not depend on whether any criminal action is brought in personam.[12]

In the case of a civil forfeiture, the U.S. Attorney's office would obtain a warrant based on the probable cause that the property was used in actions which violated the mail and wire fraud statutes. The warrant would list the complaint (violations of the mail and wire fraud statutes, 18 U.S.C. 1341, 1343) and would be served to the defendant property by the acting federal agency. The property would then be impounded by the agency, who acts as the custodian for property which has been civilly seized. Notice is technically served with the complaint, seizure of the property, and subsequent publication in a widely circulated newspaper. However, the acting federal agency commonly makes "diligent efforts to seek out potentially interested parties" so that they receive notice of the seizure and forfeiture action. If after the seizure of the property and proper publication, no interested party appears on behalf of the res, the court enters a default judgment.[13] Once proper notice has

been issued and a default judgment has been entered by the court, the decree is not subject to a collateral attack.

If the complaint is contested, a claim must be filed within ten days of service, and most likely the case will head to civil court for a jury trial. There, the prosecution must prove "clearly and convincingly" that the property in question was involved in criminal acts. The burden then shifts to the claimant to show that either the government is wrong, or that they are completely innocent of any wrongdoing, and that the property should be returned. It then shifts back to the government for rebuttal before a jury, which determines the fate of the property. The burden placed on the prosecution is much easier to prove than the criminal burden, as it is no longer necessary to prove intent. Civil forfeiture allows the government to proceed against property even where there is not enough evidence to indict or convict a defendant.[14]

If the property is found to be subject to forfeiture, it is placed in the possession of the seizing federal agency, which will most likely consult the U.S. Attorney's office as to the appropriate disposal of the property. Hopefully, as awareness grows of the harm forgeries do to the legitimate art market, the government will destroy the works, insuring their removal from circulation. Unfortunately, this has not always been the case. The mail and wire fraud statutes were utilized by the Postal Inspection Services in convicting William D. Mett and Marvin L. Wiseman and sentencing them to prison and heavy fines in 1990. However, Judge Harold Fong of the Federal District Court in Honolulu directed the Postal Inspection Service to sell off the works—some 12,000 fakes. "This sale put the Government in the position of being an accessory to the future art fraud," Bernard Ewell, a specialist in Dalì appraisals, in Colorado Springs, told the *New York Times*.[15]

In this case, the government had discretionary power over the fate of the forgeries, and rather than destroy the fakes in order to make sure the works did not recirculate, an auction was held to recoup some of the expenses incurred by the government throughout the operation. This is a frustrating example of a misguided decision. Apparently, the Postal Inspection service had no choice—ordered by trial judge. Hopefully, the art world will not have to endure another such imprudent decision.

We then return to Mr. Charles and what will become of him and his catalogue of paintings. The evidence which surrounds this case is unlikely to support a criminal conviction under the mail and wire fraud statutes. Although his property has been taken away, can he be punished for dishonest and unethical behavior?

As most state statutes do, Chapter 468, Part VI of the Florida state statute vests the Florida Board of Auctioneers with the power to grant and revoke auctioneering licenses within the state of Florida. In addition, the board is granted the power to place sanctions on any individual auctioneer or auction house which has violated the standards set forth by the board. Some of the provisions listed under 468.389, "Prohibited acts; penalties," the applicable portion of the statute reads:

> (1) The following acts shall be grounds for the disciplinary activities provided in subsection (2) and (3):
> (b) Misrepresentation of property for sale at auction or making false promises concerning the use, value or condition of such property by an auctioneer or auction business or by anyone acting as an agent of or with the consent of the auctioneer or auction business.
> (d) False, deceptive, misleading, or untruthful advertising.[16]

Penalties for such violations are spelled out in Rule Chapter 61G2-7.030; "Disciplinary Guidelines" of the Florida Administrative Code, the following is the applicable portion:

> (1) When the Board finds that an applicant or licensee whom it regulates under Chapter 468, Part VI, F.S., has committed any of the acts set forth in Section 468.389, F.S., it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:
> (a) Misrepresentation of property for sale at auction or making false promises concerning the use, value, or condition of such property by an auctioneer or auction business by anyone acting as an agent of or with the consent of the auctioneer or auction business. The usual penalty shall be: 1st offense—administrative fine up to $500, a reprimand and probation and/or license suspension; 2nd offense—an administrative fine of $500 to $1,000 and suspension; 3rd offense—an administrative fine of $1,000 and license revocation.
> (e) False, deceptive, misleading, or untruthful advertising. The usual penalty shall be: 1st offense—an administrative fine of $100 to $500 and probation, 2nd offense—an administrative fine of $500 to $1000, license suspension. 3rd offense—an administrative fine of $1,000 and license revocation.[17]

According to the statute, if Mr. Charles was found guilty of these prohibited acts by the board, he would be subjected to at least $600 to $1,000 in administrative fines and license suspension. Due to the amount of public attention, the size of the auction, and the fact that his last violation was less than two years ago, there is a good chance the auction board will not be as lenient with Mr. Charles as it was in 1995. As a result of this incident, the Florida Board of Auctioneers has the undisputed authority to strip Mr. Charles of his license and see to it that he never legally auctions in the state of Florida again. What actions the board will choose to take has yet to be seen.

A civil forfeiture action, although not normally associated with this type of situation, appears to be a viable and efficient means of legally obtaining the property interests. By focusing on the property in a case where the evidence might not substantiate a criminal conviction, and allowing the licensing board to deal with the auctioneer or auction house, the art world is assured that these particular paintings will not resurface, and the individual is appropriately reprimanded. For these to be viable approaches, they must be utilized. The U.S. Attorney's office must consider this tactic, and the Board of Auctioneers must impose strict sanctions that individuals will take seriously.

Laura Mankin
Joseph Solomon Intern
Columbia University School of Law

Notes

1. "Auction Canceled After Dealers Call Artworks Fake", *Miami Herald.* Tuesday, January 28, 1997, 1A.

2. As listed in *Art Law* by Franklin Feldman, Stephen E. Weil, and Susan Duke Biederman: "in order to avoid negligence, an appraiser should take specific steps." *Travis v. Sotheby Parke Bernet, Inc.*, Index No. 4290/79.

a. consult available literature.
b. consult with respected and knowledgable tradepersons.
c. consult with leading scholars.

3. U.C.C. Sec. 2328(4)(b); "binding effect of terms"

4. 18 U.S.C. sections 1341 (mail fraud) 18 U.S.C. Section 1341: Frauds and swindles:

> Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

5. 18 U.S.C. Section 1343: Fraud by wire, radio, or television:

> Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

6. Martha Lufkin, "It Sure Looked Like a Dalí to Me", *The Art Newspaper.* June 1997.

7. Virgilia H. Pancoast, "Largest Worldwide Supplier of Counterfeit Prints Indicted", *IFAReports.* Vol. 13 No. 2 and 3. Feb, Mar. 1992. p 2-4.

8. Henock Gessesse and Karen Sanzaro, "Eleventh Survey of White Collar Crime", 33 AM. CRIM. L. REV. at 860.

9. The pertinent portion of the statute reads:

> (B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title, shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation. (3) The court, in imposing a sentence on a person convicted of an offense under-- (A) section 666(a)(1) (relating to Federal program fraud); (B) section 1001 (relating to fraud and false statements); (C) section 1031 (relating to major fraud against the United States); (D) section 1032 (relating to concealment of assets from conservator, receiver or liquidating agent of insured financial institution); (E) section 1341 (relating to mail fraud); or (F) section 1343 (relating to wire fraud)

10. *"In rem"* is defined as:

> rem signifies that the action is against the res, and the action in rem does not seek to impose personal liability but rather to affect the interests of persons in a specific thing. A proceeding "in rem" is one taken against property, and has for its object the disposition of the property, without reference to the title of individual claimants. The outcome of the proceeding is binding on all who claim title to the property. The action is premised on the notion that the property is in itself "guilty" rather than the owner of the property. Steven H. Gifis, "IN REM", *Law Dictionary.* p. 234 (1984).

11. 18 U.S.C. 981(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of section 215, 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 656, 657, 842, 844, 1005, 1006, 1007, 1014, 1028, 1029, 1030, 1032, or 1344 of this title or a violation of section 1341 or 1343 of such title affecting a financial institution. (D) Any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of-- (i) section 666(a)(1) (relating to Federal program fraud); (ii) section 1001 (relating to fraud and false statements); (iii) section 1031 (relating to major fraud against the United States); (iv) section 1032 (relating to concealment of assets from conservator or receiver of insured financial institution); (v) section 1341 (relating to mail fraud); or (vi) section 1343 (relating to wire fraud), if such violation relates to the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

12. Matthew P. Harrington, "Rethinking In Rem: The Supreme Court's New (and Misguided) Approach to Civil Forfeiture", YALE L. & POL'Y REV. at 301.

13. *Id.* at 289.

14. *Id.* at 303.

15. Ralph Blumenthal, "12,000 Fake Dalís Under a U.S. Gavel", *The New York Times.* November 6, 1995 C 11:5.

16. FLA. STAT. CH. 468.389. "PROHIBITED ACTS; PENALTIES"

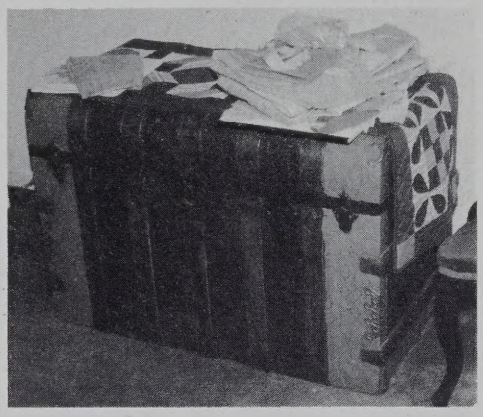
17. FLA. ADMIN. CODE ANN. R. 61G27.030. "DISCIPLINARY GUIDELINES"

Additional Information

Additional information has been provided for the antique trunk published as stolen in the August-September 1997 issue of *IFARreports* (page 17, item no. 635):

635 Antique Trunk. American (possibly German). Pressed tin with bent wood exterior. Interior may still have some of the original paper lining with part of a picture of a child in a sailor suit. One back hinge broken, front clasp incomplete at time of theft. Stolen in South Carolina between June 1994 and February 9, 1997.

Please contact H. McCarthy, Suite 295, 37 Store Street, London WC1E 7BS, England. tel & fax: (011-44-171-431-4226). *Reward.*



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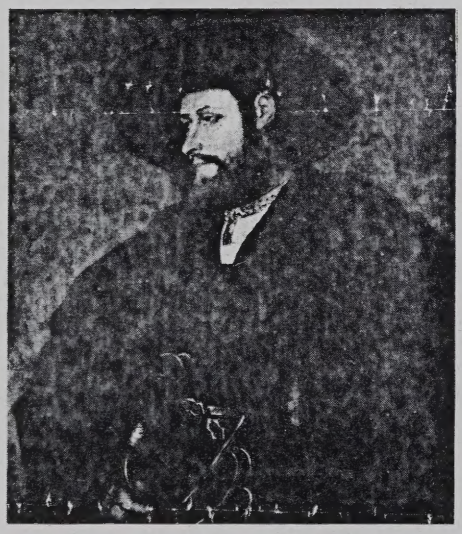
~ *Information Sought* ~



IFAR seeks information regarding the whereabouts of the following painting missing since World War II:

Giovanni Cariani (Italian, 1480-1547). *Portrait of a Nobleman.* Half-length, nearly life-size. A man, aged 35-40, wearing a black dress, cloak, and fur cap, stands to the left with his left hand on his hip and his gloved right hand touching his sword. The man is painted in warm reddish flesh tones, and the background is gray.

Please reply to: IFAR at tel: (212) 391-6234; fax: (212) 391-8794

Missing Art Alert

Missing Objects

Inclusion of works in this list is based on information that each of the reported pieces is missing and its whereabouts unaccounted for. Listing does not necessarily imply theft or any illegality on the part of any person.

Fine Arts

Paintings, Pastels, Mixed Media Works, Watercolors

French, 19th Century

8 RENOIR, Pierre Auguste (1841-1919). *Baigneuse,* 1882. Oil on canvas. 41.0 x 32.0 cm. Signed l/r: Renoir. *N97.324.1. Paris, France. Jun. 1, '95.

8

Correction

In the October 1997 issue of *IFARreports,* item no. 654 in the Stolen Art Alert was published with an incorrect date. The correct entry follows:

654 FINK, Aaron. *Portrait with Yellow Tie,* 1984. Acrylic on paper. 200.9 x 149.9 cm. A man wearing a beige hat and suit, white shirt and a bright yellow tie, against a dark ground. *N97.303.1. Long Island City, NY. Nov. 19, '96.

Stolen Art Alert

In cooperation with the Art Loss Register, the art community, insurance companies, police, the FBI, and Interpol

Stolen Objects

The stolen works in this publication are grouped under seven categories - Fine Arts, Decorative Arts, Antiquities, Ethnographic Objects, Asian Art, Islamic Art, and Miscellaneous Objects. Within the categories, they are further subdivided by object, type and school.

*Each listing includes a brief description of the work, the IFAR catalogue number, and the date and place of theft. An asterisk * before the catalogue number means that a photograph of the stolen work is available, though not necessarily included in this issue. Anyone wishing further information should contact the ALR.*

All items are registered in the database of the Art Loss Register, with its New York office at 666 Fifth Avenue, New York, NY 10103 and a London office at 12 Grosvenor Place, SW1X 7HH.

Please note that the information contained in each catalogue entry is supplied by the owner and that IFAR does not accept responsibility for the accuracy of information.

685

Fine Arts

Paintings, Pastels, Mixed Media Works, Watercolors

American, 19th Century

685 NICHOLSON, Ed. *Portrait of Mrs. Samuel M. Ralston*. Oil on canvas. 101.6 x 75.6 cm. Woman with brown hair and blue eyes wearing a Victorian, off-the-shoulder, short-sleeved dress with embroidery, flowers and lace, all in pale yellow. Dress has lace knee-length skirt over a long, full skirt and train. Chair is deep mahogany brown. Background is deep brown and red. *N97.335.1. Indiana University. Bloomington, Indiana. Sep. 4, '97.

686 *President Andrew Jackson*. Reverse painting on glass. 30.5 x 22.9 cm. Eglomisé portrait. Bordered in black and gold stripes in a plain wood frame. *N97.353.3. Dallas, TX. Apr. 17, '97. *Reward.*

686

American, 20th Century

687 TAYLOR, Brian W. *Poseidon*, 1991. Acrylic. 60.9 x 91.4 cm. His hair composed of seaweeds and braids. Another painting on the reverse depicting portraits of the artist with Van Gogh and Timothy Leary, all three wearing crowns of leaves on their heads. *N97.348.1. Detroit, MI. Aug. 12, '97. *Reward.*

Dutch, 17th Century

688 GRIFFIER I, Jan (1652-1718). *Panoramic Landscape*. Oil on panel. 28.0 x 38.0 cm. *L96.2207.1. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

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689 VERBEECK, Pieter Cornelius (1610-54). *Huntsman & Hounds at Rest*. Oil on panel. 40.0 x 51.0 cm. *L97.217.4. Oxfordshire, England. Jan. 24, '97.

Dutch, 18th Century

690 VERMEULEN, Andries (1763-1814). *Skaters on a Frozen River*. Oil on panel. 30.0 x 40.0 cm. *L97.217.2. Oxfordshire, England. Jan. 24, '97.

English, 18th Century

691 CLOWES, Daniel. *The Hunt*. Oil on canvas. 62.0 x 75.0 cm. *L97.217.3. Oxfordshire, England. Jan. 24, '97.

Flemish, 16th Century

692 MOMPER II, Joos de (1564-1635) & BRUEGHEL, Jan (the Younger) (1601-1678). *Winter Landscape with Frozen Lake & Travellers*. Oil on oak panel. 44.5 x 73.0 cm. Provenance: Mauduit Collection Collection of the Musée d'Art et d'Histoire in Geneva in 1963 according to a label on verso. *L96.2207.5. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

693 VALKENBORCH, Martin Van (1535-1612). *The Harvest or Summer*. Oil on panel. 46.0 x 79.0 cm. With Jacques Fouquières. *L96.2207.10. Golf St.- Nom-la-Bretèche, France. Oct. 23, '96.

693

Flemish, 17th Century

694 MIROU, Anton (1586-1661). *River Landscape with Travellers*. Oil on panel. 28.0 x 40.0 cm. *L96.2207.11. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

695 SNAYERS, Pieter (1592-1666). *Landscape with Hunters*. Oil on copper. 33.5 x 42.0 cm. *L96.2207.14. Golf St.-Nom-la- Bretèche, France. Oct. 23, '96.

696 VINCKBOONS, David (1576-1629). *Christ on the Road to Emmaus*. Oil on panel. 56.0 x 87.0 cm. Christ is at lower left with two companions. *L97.217.1. Oxfordshire, England. Jan. 24, '97.

694

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French, 18th Century

697 JULLIARD, Nicholas Jacques (1715-90). *Vue de la Ville de Dole*, 1759. Oil on canvas. 43.5 x 64.0 cm. Signed: J M Julliar fe. 1759 *L96.2207.4. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

French, 19th Century

698 Seignol. *Quais de la Seine enneigés*, 1890. Oil on canvas. 87.0 x 91.0 cm. *L96.2207.9. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

French, 20th Century

699 CHAURAY, Jean-Claude. *Still Life of Red Fruit or The Three Glasses.* Oil on canvas. 73.0 x 92.0 cm. *L96.2207.2. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

697

698

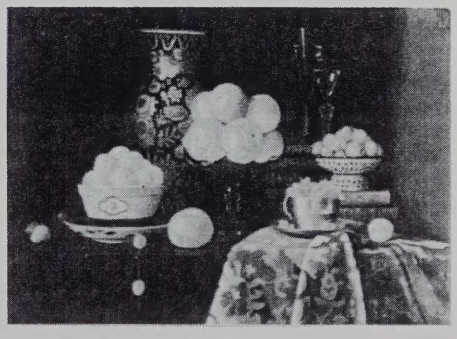
700 CHAURAY, Jean-Claude. *Still Life with Strawberries & Pewter Vessels.* Oil on canvas. 38.0 x 46.0 cm. Signed. *L96.2207.8. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

701 TRAPEZAROFF, Michel. *Au Bord de l'Indre en éte.* Oil on canvas. 38.0 x 55.0 cm. *L96.2207.7. Golf St.-Nom-la- Bretèche, France. Oct. 23, '96.

702 TRAPEZAROFF, Michel. *Dans Le Bois de Jussy.* Oil on canvas. 38.0 x 55.0 cm. *L96.2207.6. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

Hungarian, 20th Century

703 BOROS, Gyula. *Still Life with Pocket Watch on a Blue Ribbon.* Oil on panel. Signed l/r: Boros *L96.2207.13. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.



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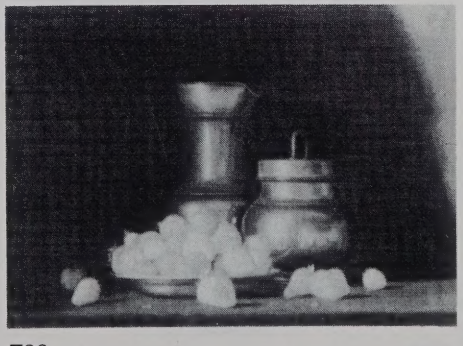

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704 BOROS, Gyula. *Still Life with Statuette*. Oil on panel. Signed l/r. *L96.2207.12. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

Italian, 18th Century

705 GUARDI, Francesco (1712-93). *St. Mark's Square Towards the Clock Tower*. Oil on canvas. 32.0 x 52.0 cm. Provenance: Coll. Duchess of Orleans ca. 1900, Galerie Lorenzelli, Bergamo, by 1974. *L96.2207.3. Golf St.-Nom-la-Bretèche, France. Oct. 23, '96.

704

705

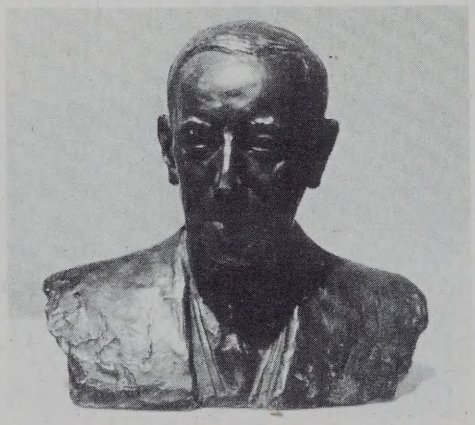
Sculpture

Nationality Unknown, 19th Century

706 *Two Water Buffalo*. Ebony/Silver. Ht. 10.0 in. A pair of carved ebony models of water buffalo, inlaid with lines of silver over the entire body. L97.217.7. Oxfordshire, England. Jan. 24, '97.

American, 20th Century

707 DAVIDSON, Jo (1883-1952). *President Woodrow Wilson*, 1916. Bronze. 21.6 x 24.1 cm. Signed: Jo Davidson. Modeled at the White House in June 1916. Edition No.: 1/16. Marked: Valsuani Foundry Paris #1. Ex. coll. Vassar Art Gallery. *N97.353.1. Dallas, TX. Apr. 17, '97. *Reward.*



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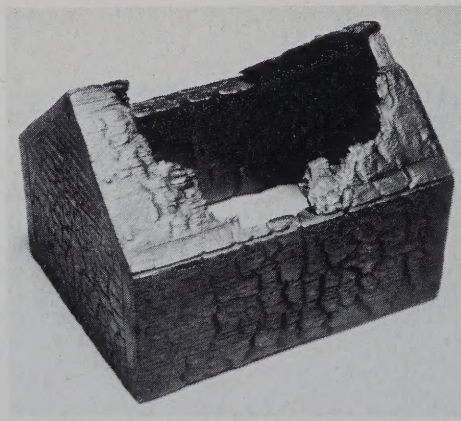


709

708 FRASER, James Earle (1876-1953). *President Teddy Roosevelt with Gunbearers*, 1923. Bronze. Ht. 31.7 cm. Signed: J.E. Fr. Marked: "c" after the signature. Made for the American Museum of Natural History in New York in 1923. Literature: Patricia Janis Broder, *Bronzes of the American West*, New York, 1974, p. 190, plate 194. *N97.353.2. Dallas, TX. Apr. 17, '97. *Reward.*

709 SHAPIRO, Joel (b. 1941). *Untitled*, 1990. Iron. 17.5 x 23.5 x 18.4 cm. Cast in a hollow house-like form with rough textured sides like fieldstones; the peaked "roof" with a very large, irregular hole and most of it missing so that the hollow interior is visible. *N97.355.1. San Francisco, CA. Sep. 21, '97.

708

French, 19th Century

710 GAUGUIN, Paul (1848-1903). *Carving*. Wood. W. 20.0 cm. A triangular block of wood carved with two crouching figures, one of a lion at left and a human with long hair at right. Possibly based on the Indian deity of Vishnu Caturmurti, depicting his eastern and southern faces, that of the lion and the human. This block appears to be cut from the same piece of wood as a piece in the Fayet Collection. *N97.341.1. New York, NY. Aug. 30, '97. *Reward.*

Spanish, 20th Century

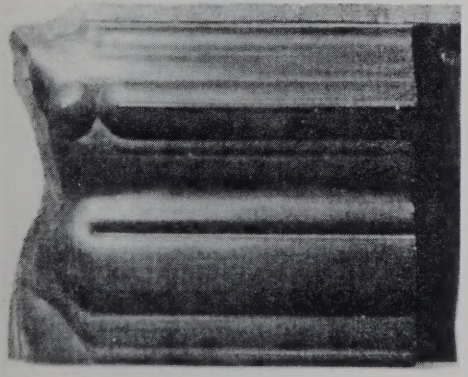
711 SUBIRACHS, Josep M. (b. 1927). *La Creacion de la Mujer*, 1967. Bronze. 71.1 x 71.1 x 17.8 cm. Depicts a nude female torso elongated toward the left side of the body. *N97.328.1. Beverly Hills, CA. May 1, '97.

Decorative Arts

Arms and Armor

American, 19th Century

712 TIFFANY & CO. Sword, 1863. Silver and gems. Presentation sword. Inscribed with the name of the recipient: Capt. Percival Drayton U.S.N. 1863. Presented by citizens of New York including members of the Union Club. Approx. 3-3.5 ft. long, in a decorative scabbard. Possibly inscribed: Presented by Citizens of NY. *N97.304.1. New York, NY. Jul. 24, '97.



711

Ceramics, Pottery, Porcelain

German, 18th Century

713 MEISSEN PORCELAIN FACTORY. *Pair of Opium Smokers.* Porcelain. A pair of eighteenth-century Meissen models of Chinese. Each is seated and smoking opium pipes. L97.217.8. Oxfordshire, England. Jan. 24, '97.

Glass

French, 19th Century

714 DAUM FRÈRES, Nancy. Table Lamp. Glass. 49.0 x 31.0 cm. Landscape design. Stem and shade decorated with silhouetted trees in winter. *L97.1702.7. Vancouver, Canada. Jun. 29, '92. Interpol Number: E-37/4-1997

715 DAUM FRÈRES, Nancy. Vase. Glass. Ht. 10.0 cm. Small vase with cornflowers growing from base. *L97.1702.6. Vancouver, Canada. Jun. 29, '92. Interpol Number: E-37/4-1997

716 GALLÉ, Emile (1846-1904). Vase. Glass. Ht. 15.0 cm. Decorated with chrysanthemums. *L97.1702.4. Vancouver, Canada. Jun. 29, '92. Interpol Number: E-37/4-1997

714

717 GALLÉ, Emile (1846-1904).Vase. Glass. Ht. 24.0 cm. Decorated with orange flowers. No rim. *L97.1702.1. Vancouver, Canada. Jun. 29, '92. Interpol Number: E-37/4-1997

715

716

717

718 GALLÉ, Emile (1846-1904). Vase. Glass. 28.0 x 23.0 cm. With branches of fruit hanging down from the rim. *L97.1702.3. Vancouver, Canada. Jun. 29, '92. Interpol Number: E-37/4-1997

719 GALLÉ, Emile (1846-1904). Vase. Glass. 51.0 x 15.0 cm. Decorated with tobacco flowers. *L97.1702.2. Vancouver, Canada. Jun. 29, '92. Interpol Number: E-37/4-1997

720 MULLER FRÈRES, Croismare. Vase. Glass. 30.0 x 28.0 cm. Peonies growing up from the base. *L97.1702.5. Vancouver, Canada. Jun. 29, '92. Interpol Number: E-37/4-1997

718

719

Silver

English, 20th Century

721 ASPREY. *Signed Tray*. Silver. Ht. 36.0 in. A large silver tray/salver by Asprey, the surface covered with signatures. With a central crest of E&O (Eastern and Orient) surmounted by a tiger. L97.217.5. Oxfordshire, England. Jan. 24, '97.

720

722

Antiquities

Ceramics, Pottery, Porcelain

Pre-Columbian, Century Unknown

722 Bottle. Earthenware. Diam. 15.5 cm. Ht. 20.0 cm. *N97.322.4. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

723 Bottle. Earthenware. Diam. 10.0 cm. Ht. 12.5 cm. Neck missing. *N97.322.3. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

724 Bottle. Earthenware. 20.0 x 18.0 cm.*N97.322.5. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

725 Bottle. Earthenware. 8.5 x 8.0 cm. The surface of the body damaged. *N97.322.6. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

723

726 Bottle. Earthenware. 20.5 x 18.0 cm.The body decorated with a horizontal black band on a red ground. With an orange and black geometric design and white dots on the upper portion of the body. With a chipped rim. *N97.322.7. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

727 Bottle. Earthenware. 23.0 x 19.0 cm. With a neck in the form of a human face with eyes and smiling mouth above a bulbous body. With a chipped rim. *N97.322.10. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

728 Bottle. Earthenware. 20.0 x 18.5 cm. Decorated wth orange and black geometric designs and cream-colored dots on the upper portion of the body. Lower part of body with a crack. *N97.322.11. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

726

730

729 Bowl. Earthenware. Diam. 14.5 cm. Ht. 8.5 cm. Coated with slip, red ground with four zones separated by five black and cream stripes. *N97.322.1. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

730 Jug. Earthenware. 15.0 x 22.0 cm. Coated with slip, orange ground, cream-colored neck, six cream, brown and orange stripes running from the neck. *N97.322.2. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

731 Jug. Earthenware. 15.5 x 13.0 cm. The body decorated with a stylized design of carp in five rows on one side, and eight rows of coffee grains on the other. With an orange and black ground and a chipped rim. *N97.322.12. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

732 Plate. Earthenware. Diam. 20.0 cm. Ht. 5.5 cm. With four pale vertical stripes inside the bowl. *N97.322.8. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

733 Plate. Earthenware. Diam. 21.5 cm. Ht. 4.5 cm. Undecorated but highly polished. With surface damage and chipped rim. *N97.322.9. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

731

Jewelry

Pre-Columbian, Century Unknown

734 "Tupo" brooch. Copper. 20.5 x 10.8 cm. A small hole at the joint of the disk and pin. With a damaged edge or rim. *N97.322.13. Yungay, Ancash, Peru. Apr. 1, '79. Interpol Number: E-22/2-1997

Asian Art

Ceramics

Chinese, 18th Century

735 *Malacca Ware.* Porcelain. A set of a three-tier steamer set of dishes with a lid, oval tray, two bowls and a plate. Each is decorated with a rooster design. L97.217.6. Oxfordshire, England. Jan. 24, '97.

732

734

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